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Attorneys for Plaintiff RICHARD SCHWARTZ

## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

## RICHARD SCHWARTZ,

Plaintiff,

v.

BERKELEY HISTORICAL SOCIETY,

Defendant.

No. C05-01551 JCS

STIPULATION AND ORDER EXTENDING TIME TO FILE OPPOSITION AND REPLY PAPERS TO DEFENDANT'S MOTION TO DISMISS (N.D. Cal. Local Rule 6-1(b))

Date: September 9, 2005

1:30 p.m. Time:

Courtroom A, 15<sup>th</sup> Floor Courtroom: Judge: Honorable Joseph C. Spero

1. Plaintiff Richard Schwartz and defendant Berkeley Historical Society, by and through their respective counsel, hereby stipulate, subject to the approval of the Court, that plaintiff's time to oppose defendant's Motion to Dismiss shall be extended to, and including, August 5, 2005. The parties further stipulate that defendant shall have until August 19, 2005 to reply to defendant's opposition.

- 2. On June 27, 2005, on its own motion, this Court moved the hearing date to September 9, 2005 from July 29, 2005, the date initially chosen by defendant in its Notice of Motion and Motion to Dismiss. The briefing schedule was not changed which currently requires plaintiff to file its opposition by July 8, 2005 and defendant to file its reply papers by July 15, 2005.
- 3. The parties are engaged in good faith settlement discussions and are hopeful that they will reach a successful conclusion shortly. (See Haje Declaration,  $\P$  2). To facilitate such discussions, the parties request this Court order extending the time the parties have to file opposition and reply papers.
- 4. The requested extension will cause no disruption or delay in the Court's docket and will provide the parties with more time to engage in good faith settlement negotiations with the expectation that this matter will be successfully resolved without judicial intervention and without incurring further legal fees. (*See* Haje Declaration,  $\P$  4, 5).
- 5. This is plaintiff's first request for an extension of time to respond to defendant's Motion to Dismiss; no prior extensions of time have been sought or granted. This Court has previously extended defendant's time to respond to plaintiff's complaint but this is defendant's first request for an extension of time to reply to plaintiff's opposition to defendant's Motion to Dismiss. (See Haje Declaration, ¶¶ 6, 7).

Dated: June 30, 2005.

KAYE SCHOLER LLP

HOWARD RICE NEMEROVSKI CANADY FALK & RABKINEL

By: /s/
Thomas A. Smart

Attorneys for Plaintiff
RICHARD SCHWARTZ

By: /s/
Shannon Scott

Attorneys for Defendant
BERKELEY HISTORICAL SOCIETY

SO ORDERED:

/s/ Joseph C. Spero

Honorable Joseph C. Spero

Dated: <u>7/11/5</u>

I, Thomas A. Smart, hereby attest, pursuant to N.D. General Order No. 45, that the concurrence to the filing of this document has been obtained from the other signatory hereto.

Dated: June 30, 2005.

Thomas A. Smart

Attorney for Plaintiff RICHARD SCHWARTZ